

DETAILED ACTION

1. This Office Action is the answer to a tel. communication received on 10/2008 because an incorrect Office Action was mailed.
2. Claims 1, 4-6, 14, 17-19, 32-37, 39-45 are pending in this application wherein claims 39-45 are new.

Priority

3. This application claims a PCT priority date of 7/16/2003.

Drawings

4. 6 sheets of formal drawings are filed in this application.

Claim Objection

5. According to Claim 41's meaning, it should be depending on claim 40.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 6A. Claims 4-5 recite "*The navigation system of claim 1 where the user modification is based on at least one vehicle characteristic*".

The examiner submits that a modifiable/changeable content of data (i.e., "a specific" vehicle characteristic data) for "user modification" is NOT a limitation of claimed "a navigation system".

Claims 4-5 provide no further limitation from claim 1.

In a similar pattern,

- 6B. Claims 18-19 provide no further limitation from claim 14.
6C. Claims 35-36 provide no further limitation from claim 32.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

35 U.S.C. § 102(e), as revised by the AIPA and H.R. 2215, applies to all qualifying references, except when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. For such patents, the prior art date is determined under 35 U.S.C. § 102(e) as it existed prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. § 102(e)).

7. Claims 32, 37, and 39 are rejected under 35 U.S.C. § 102(e) as being anticipate by Khavakh et al. (US Pub. 20030028319).

A. As to claim 32:

Khavakh et al. teach a navigation system (see Khavakh et al., FIG. 1, ref. 10), comprising:

- a navigation server comprising a processor 12 and a memory 16, where the memory 16

includes instructions executable by the processor 12 to:

calculate a first route to a trip destination (see Khavakh et al., FIG. 4, ref. 40, 50), where the first route is generated on a road network map that includes a plurality of map elements (see Khavakh et al., FIG. 12);

receive a user modification (see Khavakh et al., FIG. 1, ref. "USER INTERFACE 31"), of the first route where the user modification includes selection of at least one map element (i.e., selecting "SHORTEST DISTANCE" OR "SHORTEST TRAVEL TIME");

calculate a second route to the trip destination as a function of the user modification from that modification; and

transmit the second route to a vehicle navigation system (i.e., driver's navigation device receives signals by wireless transmission via antenna - (see Khavakh et al., FIG. 1).

B. As to claims 37, and 39:

Besides claim 32 limitations, Khavakh et al. suggest:

an adaptive route calculation module operable to receive a user modification of the first route from the input device, where the user modification includes selection of at least one map element in the road network map (see Khavakh et al., FIG. 4, ref. 40, 50), where a second route is calculated by the adaptive route calculation module as a function of the user modification (i.e., a rerouting calculation, see Khavakh et al., para. [0187]-[0188], [0193]); where the adaptive route calculation module is operable to determine differences between the first route and the second route (i.e., a displayed easy-to-recognized result from each selection), and where differences between the first route and the second route are transmitted to a vehicle navigation system.

Election/Restrictions

8. Applicant is required under 35 U.S.C. 121 to elect one of the disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, un-patentable claim 32 appears as a generic claim.

A. Species IA: "...a portion of the second route comprises the difference between the first route and the second route" (see claim 43, line 2).

B. Species IIA: "...a portion of the second route includes the entire second route" (see claim 44, line 2).

C. Species IB: "...selected map element is not included in the second route." (see claim 33, line 2).

D. Species IIB: "...selected map element is included in the second route" (see claim 34, line 2).

Applicant is requested to elect species IA or IIA; and then continuing to elect species IB or IIB for examination.

9. Applicant is advised that a reply to the species election requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP §

809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

10. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CUONG H. NGUYEN whose telephone number is 571-272-6759 (email address: cuong.nguyen@uspto.gov). The examiner can normally be reached on 9:30 am - 5:30 pm. Mon. – Tues., and Thurs. – Friday.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Please provide support, with page and line numbers, for any amended or new claim in an effort to help advance prosecution; otherwise any new claim language that is introduced in an amended or new claim may be considered as new matter, especially if the Application is a Jumbo Application.

/CUONG H. NGUYEN/
Primary Examiner
Art Unit 3661